[4910-13-P]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA-2022-0800; Project Identifier MCAI-2022-00705-T;

Amendment 39-22105; AD 2022-13-19]

RIN 2120-AA64

Airworthiness Directives; Airbus SAS Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: The FAA is superseding Airworthiness Directive (AD) 2022-11-03, which applied to certain Airbus SAS Model A350-941 and -1041 airplanes. AD 2022-11-03 required revising the existing airplane flight manual (AFM), and revising the operator's existing FAA-approved minimum equipment list (MEL) by incorporating certain master minimum equipment list (MMEL) provisions, to include limitations and procedures to mitigate the risk of elevator failure during flare. Since the FAA issued AD 2022-11-03, an updated software standard for the PRIMary flight control computers (PRIMs) has been developed to address the unsafe condition. This AD continues to require the actions in AD 2022-11-03, and also requires installing an updated PRIM software standard, as specified in a European Union Aviation Safety Agency (EASA) AD, which is incorporated by reference. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective [INSERT DATE 15 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of [INSERT DATE 15 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

The FAA must receive comments on this AD by [INSERT DATE 45 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: You may send comments, using the procedures found in 14 CFR 11.43 and 11.45, by any of the following methods:

• Federal eRulemaking Portal: Go to https://www.regulations.gov. Follow the instructions for submitting comments.

• Fax: 202-493-2251.

• Mail: U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE, Washington, DC 20590.

• Hand Delivery: Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For material incorporated by reference (IBR) in this AD, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email ADs@easa.europa.eu; Internet www.easa.europa.eu. You may find this IBR material on the EASA website at https://ad.easa.europa.eu. You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206-231-3195. It is also available in the AD docket at https://www.regulations.gov by searching for and locating Docket No. FAA-2022-0800.

Examining the AD Docket

You may examine the AD docket at https://www.regulations.gov by searching for and locating Docket No. FAA-2022-0800; or in person at Docket Operations between

9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the mandatory continuing airworthiness information (MCAI), any comments received, and other information. The street address for Docket Operations is listed above.

FOR FURTHER INFORMATION CONTACT: Dan Rodina, Aerospace Engineer, Large Aircraft Section, International Validation Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; phone 206-231-3225; email Dan.Rodina@faa.gov.

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites you to send any written data, views, or arguments about this final rule. Send your comments to an address listed under ADDRESSES. Include "Docket No. FAA-2022-0800; Project Identifier MCAI-2022-00705-T" at the beginning of your comments. The most helpful comments reference a specific portion of the final rule, explain the reason for any recommended change, and include supporting data. The FAA will consider all comments received by the closing date and may amend this final rule because of those comments.

Except for Confidential Business Information (CBI) as described in the following paragraph, and other information as described in 14 CFR 11.35, the FAA will post all comments received, without change, to https://www.regulations.gov, including any personal information you provide. The agency will also post a report summarizing each substantive verbal contact received about this final rule.

Confidential Business Information

CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this AD contain commercial or financial information that is customarily treated as private, that

you actually treat as private, and that is relevant or responsive to this AD, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as "PROPIN." The FAA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this AD. Submissions containing CBI should be sent to Dan Rodina, Aerospace Engineer, Large Aircraft Section, International Validation Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; phone 206-231-3225; email Dan.Rodina@faa.gov. Any commentary that the FAA receives which is not specifically designated as CBI will be placed in the public docket for this rulemaking.

Background

The FAA issued AD 2022-11-03, Amendment 39-22053 (87 FR 30402, May 19, 2022) (AD 2022-11-03), which applied to certain Airbus SAS Model A350-941 and -1041 airplanes. AD 2022-11-03 required revising the existing AFM, and revising the operator's existing FAA-approved MEL by incorporating certain MMEL provisions, to include limitations and procedures to mitigate the risk of elevator failure during flare. The FAA issued AD 2022-11-03 to address the faulty FCGS X13 standard, which could lead to loss of control of the elevator surfaces, possibly resulting in loss of control of the airplane.

Actions Since AD 2022-11-03 Was Issued

Since the FAA issued AD 2022-11-03, which the FAA considered an interim action, an updated software standard for the PRIMs has been developed to address the unsafe condition.

EASA, which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2022-0098, dated June 1, 2022 (EASA AD 2022-0098) (also referred to as the MCAI), to correct an unsafe condition for certain Airbus SAS

Model A350-941 and -1041 airplanes and require installing the updated software standard.

This AD was prompted by the FAA's determination that the updated software standard must be installed in order to address the unsafe condition. The FAA is issuing this AD to address the faulty FCGS X13 standard, which could lead to loss of control of the elevator surfaces, possibly resulting in loss of control of the airplane. See the MCAI for additional background information.

Explanation of Retained Requirements

Although this AD does not explicitly restate the requirements of AD 2022-11-03, this AD retains all of the requirements of AD 2022-11-03. Those requirements are referenced in EASA AD 2022-0098, which, in turn, is referenced in paragraph (g) of this AD.

Related Service Information Under 1 CFR Part 51

EASA AD 2022-0098 specifies procedures for revising the Limitations and Normal Procedures sections of the existing AFM, revising the operator's existing FAA-approved MEL by incorporating MMEL provisions, to include limitations and procedures to mitigate the risk of elevator failure during flare, and installing an updated PRIM software standard.

This material is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the ADDRESSES section.

FAA's Determination

These products have been approved by the aviation authority of another country and are approved for operation in the United States. Pursuant to the FAA's bilateral agreement with this State of Design Authority, it has notified the FAA of the unsafe condition described in the MCAI described above. The FAA is issuing this AD after

determining that the unsafe condition described previously is likely to exist or develop on other products of these same type designs.

Requirements of this AD

This AD requires accomplishing the actions specified in EASA AD 2022-0098 described previously, except for any differences identified as exceptions in the regulatory text of this AD.

EASA AD 2022-0098 requires operators to revise the AFM and "inform all flight crews, and, thereafter, operate the aeroplane accordingly." However, this AD does not specifically require those actions as those actions are already required by FAA regulations. FAA regulations require operators furnish to pilots any changes to the AFM (for example, 14 CFR 121.137), and to ensure the pilots are familiar with the AFM (for example, 14 CFR 91.505). As with any other flightcrew training requirement, training on the updated AFM content is tracked by the operators and recorded in each pilot's training record, which is available for the FAA to review. FAA regulations also require pilots to follow the procedures in the existing AFM including all updates. 14 CFR 91.9 requires that any person operating a civil aircraft must comply with the operating limitations specified in the AFM. Therefore, including a requirement in this AD to operate the airplane according to the revised AFM would be redundant and unnecessary.

Similarly, EASA AD 2022-0098 specifies amending the operator's MEL and, thereafter, "operating the aeroplane accordingly." However, this AD does not include specific operating requirements as they are already required by FAA regulations. FAA regulations (14 CFR 121.628 (a)(2)) require operators to provide pilots with access to all of the information contained in the operator's MEL. Furthermore, 14 CFR 121.628 (a)(5) requires airplanes to be operated under all applicable conditions and limitations contained in the operator's MEL. Therefore, including a requirement in this AD to operate the airplane according to the revised MEL would be redundant and unnecessary.

Explanation of Required Compliance Information

In the FAA's ongoing efforts to improve the efficiency of the AD process, the FAA developed a process to use some civil aviation authority (CAA) ADs as the primary source of information for compliance with requirements for corresponding FAA ADs. The FAA has been coordinating this process with manufacturers and CAAs. As a result, EASA AD 2022-0098 is incorporated by reference in this AD. This AD requires compliance with EASA AD 2022-0098 in its entirety through that incorporation, except for any differences identified as exceptions in the regulatory text of this AD. Using common terms that are the same as the heading of a particular section in EASA AD 2022-0098 does not mean that operators need comply only with that section. For example, where the AD requirement refers to "all required actions and compliance times," compliance with this AD requirement is not limited to the section titled "Required Action(s) and Compliance Time(s)" in EASA AD 2022-0098. Service information required by EASA AD 2022-0098 for compliance will be available at https://www.regulations.gov by searching for and locating Docket No. FAA-2022-0800 after this AD is published.

FAA's Justification and Determination of the Effective Date

Section 553(b)(3)(B) of the Administrative Procedure Act (APA) (5 U.S.C. 551 *et seq.*) authorizes agencies to dispense with notice and comment procedures for rules when the agency, for "good cause," finds that those procedures are "impracticable, unnecessary, or contrary to the public interest." Under this section, an agency, upon finding good cause, may issue a final rule without providing notice and seeking comment prior to issuance. Further, section 553(d) of the APA authorizes agencies to make rules effective in less than thirty days, upon a finding of good cause.

An unsafe condition exists that requires the immediate adoption of this AD without providing an opportunity for public comments prior to adoption. The FAA has

found that the risk to the flying public justifies forgoing notice and comment prior to adoption of this rule. Since the FAA issued AD 2022-11-03, an updated software standard for the PRIMs has been developed to address the unsafe condition. The actions required by AD 2022-11-03 are an interim action that mitigate the unsafe condition but do not address the root cause of the unsafe condition. The installation of the updated software standard addresses the root cause of the unsafe condition and allows the removal of the AFM and MEL revisions required by AD 2022-11-03.

Incorrect logic in the PRIMs may cause the PRIM computers to inadvertently lose control over their respective elevator actuators during flare phase, depending on flight conditions, potentially affecting every flight and possibly resulting in loss of control of the airplane in a critical phase of flight. Given the significance of the risk presented by this unsafe condition, it must be immediately addressed. Accordingly, notice and opportunity for prior public comment are impracticable and contrary to the public interest pursuant to 5 U.S.C. 553(b)(3)(B).

In addition, the FAA finds that good cause exists pursuant to 5 U.S.C. 553(d) for making this amendment effective in less than 30 days, for the same reasons the FAA found good cause to forgo notice and comment.

Regulatory Flexibility Act (RFA)

The requirements of the RFA do not apply when an agency finds good cause pursuant to 5 U.S.C. 553 to adopt a rule without prior notice and comment. Because the FAA has determined that it has good cause to adopt this rule without notice and comment, RFA analysis is not required.

Costs of Compliance

The FAA estimates that this AD affects 30 airplanes of U.S. registry. The FAA estimates the following costs to comply with this AD:

Estimated costs for required actions

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Retained actions from AD 2022-11-03	1 work-hour X $85 per hour = $85	$0	$85	$2,550
New actions	2 work-hours X $85 per hour = $170	$300	$470	$14,100

According to the manufacturer, some or all of the costs of this AD may be covered under warranty, thereby reducing the cost impact on affected operators. The FAA does not control warranty coverage for affected operators. As a result, the FAA has included all known costs in the cost estimate.

Authority for this Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. Subtitle VII: Aviation Programs, describes in more detail the scope of the Agency's authority.

The FAA is issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, Section 44701: General requirements. Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

This AD will not have federalism implications under Executive Order 13132. This AD will not have a substantial direct effect on the States, on the relationship between the

national government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify that this AD:

(1) Is not a "significant regulatory action" under Executive Order 12866, and

(2) Will not affect intrastate aviation in Alaska.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

The Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA amends 14 CFR part 39 as follows:

PART 39 - AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. The FAA amends § 39.13 by:

a. Removing Airworthiness Directive (AD) 2022-11-03, Amendment 39-22053 (87 FR 30402, May 19, 2022); and

b. Adding the following new AD:

2022-13-19 Airbus SAS: Amendment 39-22105; Docket No. FAA-2022-0800; Project Identifier MCAI-2022-00705-T.

(a) Effective Date

This airworthiness directive (AD) is effective [INSERT DATE 15 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

(b) Affected ADs

This AD replaces AD 2022-11-03, Amendment 39-22053 (87 FR 30402, May 19, 2022) (AD 2022-11-03).

(c) Applicability

This AD applies to Airbus SAS Model A350-941 and -1041 airplanes, certificated in any category, as identified in European Union Aviation Safety Agency (EASA) AD 2022-0098, dated June 1, 2022 (EASA AD 2022-0098).

(d) Subject

Air Transport Association (ATA) of America Code 27, Flight controls.

(e) Unsafe Condition

This AD was prompted by an indication that both elevator actuators of the PRIMary flight control computers (PRIMs) were considered faulty due to incorrect instructions with a new PRIM standard and a determination that an updated software standard for the PRIMs must be installed. The FAA is issuing this AD to address the faulty standard, which could lead to loss of control of the elevator surfaces, possibly resulting in loss of control of the airplane.

(f) Compliance

Comply with this AD within the compliance times specified, unless already done.

(g) Requirements

Except as specified in paragraph (h) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, EASA AD 2022-0098.

(h) Exceptions to EASA AD 2022-0098

(1) Where EASA AD 2022-0098 refers to its effective date, this AD requires using the effective date of this AD.

(2) Where EASA AD 2022-0098 refers to May 9, 2022 (the effective date of EASA AD 2022-0079-E), this AD requires using June 3, 2022 (the effective date of AD 2022-11-03).

(3) Where paragraph (1) of EASA AD 2022-0098 specifies to "inform all flight crews, and, thereafter, operate the aeroplane accordingly," this AD does not require those actions as those actions are already required by existing FAA operating regulations.

(4) Where paragraph (3) of EASA AD 2022-0098 specifies to "implement the instructions of the MER, as defined in [the EASA] AD," for this AD replace that phrase with "revise the operator's existing FAA-approved minimum equipment list (MEL) to incorporate the instructions of the MER."

(5) Where paragraph (4) of EASA AD 2022-0098 specifies "operating the aeroplane accordingly," this AD does not require that action as that action is already required by existing FAA operating regulations.

(6) The "Remarks" section of EASA AD 2022-0098 does not apply to this AD.

(i) Additional AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, Large Aircraft Section, International Validation Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or responsible Flight Standards Office, as appropriate. If sending information directly to the Large Aircraft Section, International Validation Branch, send it to the attention of the person identified in paragraph (j) of this AD. Information may be emailed to: 9-AVS-AIR-730-AMOC@faa.gov. Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the responsible Flight Standards Office.

(2) *Contacting the Manufacturer:* For any requirement in this AD to obtain instructions from a manufacturer, the instructions must be accomplished using a method approved by the Manager, Large Aircraft Section, International Validation Branch, FAA;

or EASA; or Airbus SAS's EASA Design Organization Approval (DOA). If approved by the DOA, the approval must include the DOA-authorized signature.

(3) *Required for Compliance (RC)*: Except as required by paragraph (i)(2) of this AD, if any service information contains procedures or tests that are identified as RC, those procedures and tests must be done to comply with this AD; any procedures or tests that are not identified as RC are recommended. Those procedures and tests that are not identified as RC may be deviated from using accepted methods in accordance with the operator's maintenance or inspection program without obtaining approval of an AMOC, provided the procedures and tests identified as RC can be done and the airplane can be put back in an airworthy condition. Any substitutions or changes to procedures or tests identified as RC require approval of an AMOC.

(j) Related Information

For more information about this AD, contact Dan Rodina, Aerospace Engineer, Large Aircraft Section, International Validation Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; phone 206-231-3225; email Dan.Rodina@faa.gov.

(k) Material Incorporated by Reference

(1) The Director of the Federal Register approved the incorporation by reference (IBR) of the service information listed in this paragraph under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) You must use this service information as applicable to do the actions required by this AD, unless this AD specifies otherwise.

(i) European Union Aviation Safety Agency (EASA) AD 2022-0098, dated June 1, 2022.

(ii) [Reserved]

(3) For EASA AD 2022-0098, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email ADs@easa.europa.eu; Internet

www.easa.europa.eu. You may find this EASA AD on the EASA website at https://ad.easa.europa.eu.

(4) You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206-231-3195. This material may be found in the AD docket at https://www.regulations.gov by searching for and locating Docket No. FAA-2022-0800.

(6) You may view this material that is incorporated by reference at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, email fr.inspection@nara.gov, or go to: https://www.archives.gov/federal-register/cfr/ibr-locations.html.

Issued on June 17, 2022.

Christina Underwood, Acting Director,
Compliance & Airworthiness Division,
Aircraft Certification Service.

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